

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Administrative Procedure Act is
5 amended by changing Sections 5-30 and 5-130 as follows:

6 (5 ILCS 100/5-30) (from Ch. 127, par. 1005-30)

7 Sec. 5-30. Regulatory flexibility. When an agency proposes
8 a new rule or an amendment to an existing rule that may have an
9 impact on small businesses, not for profit corporations, or
10 small municipalities, the agency shall do each of the
11 following:

12 (a) The agency shall consider each of the following methods
13 for reducing the impact of the rulemaking on small businesses,
14 not for profit corporations, or small municipalities. The
15 agency shall reduce the impact by utilizing one or more of the
16 following methods if it finds that the methods are legal and
17 feasible in meeting the statutory objectives that are the basis
18 of the proposed rulemaking.

19 (1) Establish less stringent compliance or reporting
20 requirements in the rule for small businesses, not for
21 profit corporations, or small municipalities.

22 (2) Establish less stringent schedules or deadlines in
23 the rule for compliance or reporting requirements for small
24 businesses, not for profit corporations, or small
25 municipalities.

26 (3) Consolidate or simplify the rule's compliance or
27 reporting requirements for small businesses, not for
28 profit corporations, or small municipalities.

29 (4) Establish performance standards to replace design
30 or operational standards in the rule for small businesses,
31 not for profit corporations, or small municipalities.

32 (5) Exempt small businesses, not for profit

1 corporations, or small municipalities from any or all
2 requirements of the rule.

3 (b) Before or during the notice period required under
4 subsection (b) of Section 5-40, the agency shall provide an
5 opportunity for small businesses, not for profit corporations,
6 or small municipalities to participate in the rulemaking
7 process. The agency shall utilize one or more of the following
8 techniques. These techniques are in addition to other
9 rulemaking requirements imposed by this Act or by any other
10 Act.

11 (1) The inclusion in any advance notice of possible
12 rulemaking of a statement that the rule may have an impact
13 on small businesses, not for profit corporations, or small
14 municipalities.

15 (2) The publication of a notice of rulemaking in
16 publications likely to be obtained by small businesses, not
17 for profit corporations, or small municipalities.

18 (3) The direct notification of interested small
19 businesses, not for profit corporations, or small
20 municipalities.

21 (4) The conduct of public hearings concerning the
22 impact of the rule on small businesses, not for profit
23 corporations, or small municipalities.

24 (5) The use of special hearing or comment procedures to
25 reduce the cost or complexity of participation in the
26 rulemaking by small businesses, not for profit
27 corporations, or small municipalities.

28 (c) Prior to the adoption of any proposed rule or amendment
29 that may have an adverse impact on small businesses, each
30 agency shall prepare an economic impact analysis that includes
31 the following:

32 (1) an identification and estimate of the number of the
33 small businesses subject to the proposed rule or amendment;

34 (2) the projected reporting, recordkeeping, and other
35 administrative costs required for compliance with the
36 proposed rule or amendment, including the type of

1 professional skills necessary for preparation of the
2 report or record;

3 (3) a statement of the probable effect on impacted
4 small businesses; and

5 (4) A description of any less intrusive or less costly
6 alternative methods of achieving the purpose of the
7 proposed rule or amendment. Before the notice period
8 required under subsection (b) of Section 5-40, the
9 Secretary of State shall provide to the Business Assistance
10 Office of the Department of Commerce and Community Affairs
11 a copy of any proposed rules or amendments accepted for
12 publication. The Business Assistance Office shall prepare
13 an impact analysis of the rule describing the rule's effect
14 on small businesses whenever the Office believes, in its
15 discretion, that an analysis is warranted or whenever
16 requested to do so by 25 interested persons, an association
17 representing at least 100 interested persons, the
18 Governor, a unit of local government, or the Joint
19 Committee on Administrative Rules. The impact analysis
20 shall be completed within the notice period as described in
21 subsection (b) of Section 5-40. Upon completion of the
22 analysis the agency Business Assistance Office shall
23 submit this analysis to the Joint Committee on
24 Administrative Rules, any interested person who requested
25 the analysis, and the Business Assistance Office of the
26 Department of Commerce and Economic Opportunity agency
27 proposing the rule. The impact analysis shall contain the
28 following:

29 ~~(1) A summary of the projected reporting,~~
30 ~~recordkeeping, and other compliance requirements of the~~
31 ~~proposed rule.~~

32 ~~(2) A description of the types and an estimate of the~~
33 ~~number of small businesses to which the proposed rule will~~
34 ~~apply.~~

35 ~~(3) An estimate of the economic impact that the~~
36 ~~regulation will have on the various types of small~~

1 ~~businesses affected by the rulemaking.~~

2 ~~(4) A description or listing of alternatives to the~~
3 ~~proposed rule that would minimize the economic impact of~~
4 ~~the rule. The alternatives must be consistent with the~~
5 ~~stated objectives of the applicable statutes and~~
6 ~~regulations.~~

7 (Source: P.A. 87-823; 88-667, eff. 9-16-94; revised 12-6-03.)

8 (5 ILCS 100/5-130) (from Ch. 127, par. 1005-130)

9 Sec. 5-130. Periodic review of existing rules.

10 (a) The Joint Committee shall evaluate the rules of each
11 agency at least once every 5 years. The Joint Committee by rule
12 shall develop a schedule for this periodic evaluation. In
13 developing this schedule the Joint Committee shall group rules
14 by specified areas to assure the evaluation of similar rules at
15 the same time. The schedule shall include at least the
16 following categories:

- 17 (1) Human resources.
18 (2) Law enforcement.
19 (3) Energy.
20 (4) Environment.
21 (5) Natural resources.
22 (6) Transportation.
23 (7) Public utilities.
24 (8) Consumer protection.
25 (9) Licensing laws.
26 (10) Regulation of occupations.
27 (11) Labor laws.
28 (12) Business regulation.
29 (13) Financial institutions.
30 (14) Government purchasing.

31 (b) When evaluating rules under this Section, the Joint
32 Committee's review shall include an examination of the
33 following:

- 34 (1) Organizational, structural, and procedural reforms
35 that affect rules or rulemaking.

1 (2) Merger, modification, establishment, or abolition
2 of regulations.

3 (3) Eliminating or phasing out outdated, overlapping,
4 or conflicting regulatory jurisdictions or requirements of
5 general applicability.

6 (4) Economic and budgetary effects.

7 (c) Within 4 years of the effective date of this amendatory
8 Act of the 94th General Assembly, each agency shall review all
9 agency rules existing at the time of enactment to determine
10 whether such rules should be continued without change, or
11 should be amended or rescinded, consistent with the stated
12 objectives of those statutes, to minimize economic impact of
13 the rules on small businesses in a manner consistent with the
14 stated objective of applicable statutes. If the head of the
15 agency determines that completion of the review of existing
16 rules is not feasible by the established date, the agency shall
17 publish a statement certifying that determination. The agency
18 may extend the completion date by one year at a time for a
19 total of not more than 5 years.

20 Rules adopted after the effective date of this amendatory
21 Act of the 94th General Assembly should be reviewed every 5
22 years after the publication of such rules as the final rule to
23 ensure that they minimize economic impact on small businesses
24 in a manner consistent with the stated objectives of applicable
25 statutes.

26 In reviewing rules to minimize economic impact of the rule
27 on small businesses, the agency shall consider the following
28 factors:

29 (1) the continued need for the rule;

30 (2) the nature of complaints or comments received
31 concerning the rule from the public;

32 (3) the complexity of the rule;

33 (4) the extent to which the rule overlaps, duplicates,
34 or conflicts with other federal, State, and local
35 governmental rules; and

36 (5) the length of time since the rule has been

1 evaluated or the degree to which technology, economic
2 conditions, or other factors have changed in the area
3 affected by the rule.

4 (Source: P.A. 87-823; 88-667, eff. 9-16-94.)